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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 **FREDDERICKA T. BRADSHAW,**
12 **Plaintiff,**
13 **vs.**
14 **DISCOVER FINANCIAL**
15 **SERVICES, INC.,**
16 **Defendants.**

CASE NO. 13-CV-599

**ORDER DENYING MOTION
TO PROCEED IFP**

[Dkt. No. 2]

17 Plaintiff Fredericka T. Bradshaw has commenced a civil action against
18 Defendant Discover Financial Services for violations of the Telephone Consumer
19 Protection Act. (Dkt. No. 1.) Plaintiff is proceeding with counsel. Instead of
20 paying the \$350.00 filing fee, Plaintiff moves to proceed in forma pauperis ("IFP").
21 (Dkt. No. 2.) For the reasons set forth below, Plaintiff's motion to proceed IFP is
22 **DENIED** and the action is dismissed without prejudice.

23 **DISCUSSION**

24 All parties instituting any civil action, suit, or proceeding in a district court of
25 the United States, except for an application for writ of habeas corpus, must pay a
26 filing fee of \$350.00. 28 U.S.C. § 1914. An action may proceed despite a
27 plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to
28 proceed IFP pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d

1 1176, 1177 (9th Cir. 1999).

2 A party need not be completely destitute to proceed IFP. *Adkins v. E.I. DuPont*
 3 *de Nemours & Co.*, 335 U.S. 331, 339-40 (1948). But, "the same even-handed care
 4 must be employed to assure that federal funds are not squandered to underwrite, at
 5 public expense, either frivolous claims or the remonstrances of a suitor who is
 6 financially able, in whole or in material part, to pull his own oar." *Temple v.*
 7 *Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984) (citing *Brewster v. North Am. Van*
 8 *Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972).

9 In an attached declaration, Plaintiff states that she has a monthly salary of
 10 \$1,758.00. She owns outright a car valued at \$1,749.00, furniture valued at
 11 \$900.00, a computer valued at \$400.00, clothing valued at \$250.00, and jewelry
 12 valued at \$200.00. She indicates that she owns a house "valued at \$99,199.00 with
 13 \$226,858.83 owed." She reports average monthly expenses of \$1,999.55, which
 14 includes \$1,029 for her mortgage, \$40 for recreation, \$40 for personal grooming
 15 and hygiene, and \$91 for phone/Internet/cell phone.

16 Although this is a close case, it appears Plaintiff could pay the filing fee by
 17 making acceptable sacrifices to other expenses. The motion to proceed IFP is
 18 **DENIED** and the case is **DISMISSED** without prejudice.

19 CONCLUSION

20 For the reasons set forth above, the Court **DENIES** Plaintiff's motion to
 21 proceed IFP and **DISMISSES** the Complaint without prejudice. Plaintiff has
 22 forty-five (45) days from the date of this Order to reopen the case by paying the
 23 \$350 filing fee. If Plaintiff fails to do so, the case will remain closed.

24
 25 **IT IS SO ORDERED.**

26
 27 Dated: April // , 2013

28 
 Hon. Roger T. Benitez
 United States District Judge